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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

Jenny Lisette Flores., *et al.*,

Plaintiffs,

v.

William Barr, Attorney General of the
United States, *et al.*,

Defendants.

Case No. CV 85-4544-DMG-AGR_x

JOINT STATUS REPORT

Hearing: None set

[HON. DOLLY M. GEE]

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Joint Status Report

On June 26, 2019, Plaintiffs filed an *Ex Parte* Application for a Temporary Restraining Order and an Order to Show Cause Why a Preliminary Injunction and Contempt Order Should Not Issue (“*Ex Parte* Application”). [Doc. # 572.]¹

On June 27, 2019, Defendants filed an Opposition, wherein they requested that the Court deny the request for a temporary restraining order, and set a schedule for briefing these issues that provided Defendants with a full and fair opportunity to respond to the allegations that Plaintiffs lodged against them, or to order the parties to engage in an expedited mediation process in front of the Monitor to address Plaintiffs’ concerns. Opposition at 5–6 [Doc. # 574.]

On June 28, 2019, this Court issued its In Chambers - Order re Plaintiffs’ *Ex Parte* Application for a Temporary Restraining Order and an Order to Show Cause Why a Preliminary Injunction and Contempt Order Should Not Issue (“June 28, 2019 Order”). [Doc. # 576.] The June 28, 2019 Order refers the issues in the *Ex Parte* Application for expedited mediation before the *Flores* Monitor. *Id.* at 3. The Order also required that by July 12, 2019, the parties shall file a joint status report

¹ Class Counsel is fully aware that the Monitor has actively and effectively engaged with Class Counsel, the Juvenile Coordinators, and with this Court, to establish and facilitate an expeditious process for the resolution of myriad disputes that have arisen since her appointment. The statement in the *Ex Parte* App. at 5 [Doc. # 572], discussed in footnote 2 of the Court’s June 28, 2019 Order, was inadvertently included in the *Ex Parte* Application and is hereby withdrawn.

1 “regarding their mediation efforts and what has been done to address post haste the
2 conditions described in the *Ex Parte* Application.” *Id.*

3
4 Further, on July 8, 2019, the Court issued an order by agreement of the
5 parties authorizing the appointment of Dr. Wise as the Monitor’s expert. [Doc. #
6 591.] The Notice sets the following terms and conditions of Dr. Wise’s
7 appointment:
8

9 [T]he Expert will consult with and assist the Monitor in assessing child
10 health and safety conditions in facilities operated by Customs and Border
11 Protection (CBP) and Office of Refugee Resettlement (ORR). The Expert
12 will advise the Monitor on any remedial steps necessary to bring the
13 conditions of custody and systems of child health care into compliance with
14 the law and the Flores Settlement Agreement (FSA).
15

16
17 The Expert will assess the health conditions of minors in custody of CBP and
18 ORR and will, among other things, review and assess demographic and
19 programmatic data, standards and protocols for child health and safety, and
20 medical records of children in custody of CBP and ORR. The Expert will
21 conduct facility inspections, interviews with children and parents in the
22 custody of CBP and ORR, and meet with responsible Department of
23 Homeland Security and Department of Health and Human Services officials
24 and relevant experts and professional organizations.
25
26
27

28 *Id.* at 2.

1 On July 10, 2019, the parties engaged in good faith mediation conducted by
2 the Monitor. Dr. Wise was present after conducting his first visit to the Rio Grande
3 Valley (RGV) Sector. Present for Plaintiffs were counsel for Plaintiffs and certain
4 of Plaintiffs' experts. Present on behalf of Defendants were Defendants' counsel,
5 Dr. David Tarantino, CBP's Senior Medical Advisor, Henry Moak, CBP's Juvenile
6 Coordinator, and representatives from CBP and from U.S. Border Patrol.
7

8
9 At that mediation, the parties and the Monitor agreed that on or before
10 August 15, 2019, Dr. Wise will submit to Class Counsel, Defendants' counsel, and
11 the Monitor a draft report of his findings and recommendations; on or before
12 August 22, 2019, Plaintiffs and Defendants will provide to the Monitor their
13 objections to or comments regarding Dr. Wise's draft report and recommendations,
14 if any; by August 29, 2019, Dr. Wise will submit to the Monitor his report and
15 recommendations taking into account the comments of the parties as appropriate,
16 and the Monitor will promptly provide copies to Class Counsel and Defendants'
17 counsel. The parties and the Monitor agreed to reconvene in mediation
18 approximately one week after Dr. Wise's report and recommendations are provided
19 to the Monitor.
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23

24 The parties agree that the ongoing mediation discussions will cover all topics
25 raised in Plaintiffs *Ex Parte* Application, including medical care, conditions of
26 custody for class members in the RGV and El Paso Sectors, the duration of custody
27 for class members in the RGV and El Paso Sectors, and data collection and
28

1 disclosure. The parties agree that the goal of reaching joint resolution of these
2 issues is best served by allowing time for continued discussions that are informed
3 by Dr. Wise's observations and recommendations.
4

5 Defendants represent that in May, RGV Sector apprehended 4,870 UACs and
6 33,933 family units, and El Paso Sector apprehended 3,256 UACs and 29,815
7 family units. By contrast, in June, RGV Sector apprehended 3,903 UACs and
8 30,165 family units, and El Paso Sector apprehended 1,311 UACs and 13,508
9 family units. *See* [https://www.cbp.gov/newsroom/stats/sw-border-migration/usbp-](https://www.cbp.gov/newsroom/stats/sw-border-migration/usbp-sw-border-apprehensions)
10 [sw-border-apprehensions](https://www.cbp.gov/newsroom/stats/sw-border-migration/usbp-sw-border-apprehensions) (Southwest Border Family Unit Subject, Unaccompanied
11 Alien Children, and Single Adult Apprehensions Fiscal Year 2019- by Month).
12 Defendants further represent that lower apprehension rates combined with increases
13 in capacity by HHS have allowed for reductions in the numbers of minors in
14 custody and reduced times in custody for minors in the RGV and El Paso sectors.
15

16 In order to provide some assurances to Plaintiffs, the Monitor, and the Court,
17 while Dr. Wise's evaluation is ongoing, Defendants also assert that they have
18 provided to Plaintiffs and the Monitor—and will further provide—information
19 about the services that they are currently providing in the RGV and El Paso Border
20 Patrol Sectors that may serve to mitigate the challenges presented by the
21 unprecedented recent influxes in those Sectors. Defendants commit that they will
22 promptly provide to the Monitor (and in some cases to Plaintiffs)—subject to any
23 necessary restrictions caused by the contracting process—contracts from the RGV
24
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1 and El Paso Sectors that evidence the current services available to class members in
2 these two sectors related to the conditions addressed in the *Ex Parte* Application.
3
4 Defendants further commit that they will assess whether there are any additional
5 modifications that can be made to any of these contracts.

6 The parties agreed that the Special Monitor will continue to perform her
7 ongoing responsibilities throughout this period.
8

9
10 Respectfully submitted,

11
12 Dated: July 12, 2019

13 /s/Peter Schey
14 *Class Counsel for Plaintiffs*
15 CENTER FOR HUMAN RIGHTS &
16 CONSTITUTIONAL LAW
17 Peter A. Schey
18 Carlos Holguín
19 Laura N. Diamond
20 Rachel Leach

21 /s/ Sarah Fabian
22 *Counsel for Defendants*
23 U.S. DEPARTMENT OF JUSTICE
24 Sarah B. Fabian
25 Senior Litigation Counsel
26 Office of Immigration Litigation
27 District Court Section
28

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CERTIFICATE OF SERVICE

I, Peter Schey, declare and say as follows:

I am over the age of eighteen years of age and am not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 256 S. Occidental Blvd., Los Angeles, CA 90057, in said county and state. ^LSEP

On July 12, 2019 I electronically filed the following document(s):

JOINT STATUS REPORT

with the United States District Court, Central District of California by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

/s/Peter Schey
Attorney for Plaintiffs